

AMENDED IN SENATE JUNE 9, 2014
AMENDED IN ASSEMBLY MAY 8, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1770

Introduced by Assembly Member Dababneh

February 14, 2014

~~An act to add Section 2941.8 to the Civil Code, relating to real property.~~
An act to add Section 2943.1 to the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1770, as amended, Dababneh. ~~Real property liens: request to terminate home equity line of credit.~~ *Real property liens: revolving lines of credit: suspend and close.*

Under existing law, within 30 days after a mortgage has been satisfied, the mortgagee or the assignee of the mortgagee is required to execute a certificate of the discharge of the mortgage, as specified, and to deliver, upon the request of the mortgagor or another authorized person, the original note and mortgage to the person making the request.

Existing law requires a creditor to make certain disclosures to a consumer applying for a home equity loan, as defined. Existing federal law relating to lending practices specifies certain circumstances under which a lender may reduce or terminate an existing home equity line of credit.

~~This bill would require a lender, upon receipt of a written request from an authorized person, as defined, to terminate a borrower's equity line of credit, as defined, when the secured property is in escrow. This~~

~~bill would prescribe the contents of this written request, and would require the authorized person to provide a copy of the written request to the borrower, along with a notice to the borrower relating to the effect of the termination of the home equity line of credit.~~

This bill would, on and after July 1, 2015, require a lender, upon receipt of a specified written request from a borrower and a specified payment, to close a borrower's revolving line of credit, as defined, and to release or reconvey the property secured by the revolving line of credit, as specified. The bill would prescribe the contents of the written request.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 2943.1 is added to the Civil Code, to read:*
2 *2943.1. (a) For purposes of this section, the following*
3 *definitions apply:*
4 *(1) "Beneficiary" has the same meaning as defined in Section*
5 *2943.*
6 *(2) "Borrower's Instruction to Suspend and Close" means the*
7 *instruction described in subdivision (c), signed by the borrower*
8 *or borrowers under a revolving line of credit.*
9 *(3) "Entitled person" has the same meaning as defined in*
10 *Section 2943.*
11 *(4) "Payoff demand statement" has the same meaning as defined*
12 *in Section 2943.*
13 *(5) "Revolving line of credit" means an open-end revolving*
14 *loan that is established pursuant to a written agreement between*
15 *a borrower and a lender on residential real property consisting*
16 *of one to four dwelling units in which the lender agrees to lend*
17 *the borrower money on a continuing basis for as long as the*
18 *outstanding principal amount owed by the borrower does not*
19 *exceed a specified amount, and which is secured by a mortgage*
20 *or deed of trust on real property.*
21 *(6) "Suspend" means to prohibit the borrower from drawing*
22 *on, increasing, or incurring any additional principal debt on the*
23 *revolving line of credit.*
24 *(b) Notwithstanding paragraph (5) of subdivision (a) of Section*
25 *2943, a payoff demand statement issued by a beneficiary in*

1 connection with a revolving line of credit shall include an email
2 address, fax number, or mailing address designated by the
3 beneficiary for delivery of the Borrower's Instruction to Suspend
4 and Close by the entitled person.

5 (c) Upon receipt from an entitled person of a Borrower's
6 Instruction to Suspend and Close Revolving Line of Credit, signed
7 by a borrower, a beneficiary shall suspend the revolving line of
8 credit for a minimum of 45 days. A Borrower's Instruction to
9 Suspend and Close shall be effective if made substantially in the
10 following form and signed by the borrower:

11
12 "Borrower's Instruction to Suspend and Close
13 Revolving Line of Credit

14
15 Lender: [Name of Lender]

16
17 Borrower(s): [Name of Borrower(s)]

18
19 Account Number of the Equity Line of Credit: [Account Number]

20
21 Encumbered Property Address: [Property Address]

22
23 Escrow or Settlement Agent: [Name of Agent]:

24
25 In connection with a sale or refinance of the above-referenced property, my
26 Escrow or Settlement Agent has requested a payoff demand statement for the
27 above-described revolving line of credit. I understand my ability to use this
28 account has been suspended for at least 45 days to accommodate this pending
29 transaction. I understand that I cannot use any credit cards, debit cards, or
30 checks associated with this account while my account is suspended and all
31 amounts will be due and payable upon close of escrow. I also understand that
32 when payment is made in accordance with the payoff demand statement, my
33 revolving line of credit will be closed. If any amounts remain due after the
34 payment is made, I understand I will remain personally liable for those amounts
35 even if the account has been closed and the property released.

36
37 This is my written authorization and instruction that you are to close my
38 revolving line of credit account and cause the secured lien against this property
39 to be released when you are in receipt of both this instruction and payment in
40 accordance with your payoff demand statement.

1
2
3 _____
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

(Date)

(Signature of Each Borrower)

”

(d) When a beneficiary is in receipt of both a Borrower's Instruction to Suspend and Close Revolving Line of Credit and payment in accordance with the payoff demand statement as set forth in Section 2943, the beneficiary shall do all of the following:

(1) Close the revolving line of credit.

(2) Release or reconvey the property securing the revolving line of credit, as provided by this chapter.

(e) This section shall become operative on July 1, 2015.

SECTION 1. ~~Section 2941.8 is added to the Civil Code, to read:~~

~~2941.8. (a) Upon receipt of a written request from an authorized person to terminate an equity line of credit, the lender shall do all of the following:~~

~~(1) Terminate the borrower's right to obtain advances under the borrower's equity line of credit.~~

~~(2) Apply all sums subsequently paid by or on behalf of the borrower in connection with the equity line of credit to the satisfaction of the equity line of credit.~~

~~(3) Reconvey the mortgage or deed of trust when the home equity line of credit has a zero balance outstanding.~~

~~(b) The written request provided to the lender to terminate an equity line of credit shall contain at least the following:~~

~~(1) The name of each borrower.~~

~~(2) The account number of the equity line of credit.~~

~~(3) The street address of the property, if appropriate.~~

~~(c) For purposes of this section "authorized person" includes a licensed title insurance company, underwritten title company, or controlled escrow company, as defined in Sections 12340.4, 12340.5, and 12340.6, respectively, of the Insurance Code, or an escrow company as used in the Financial Code, that is acting on behalf of the borrower.~~

~~(d) For purposes of this section, "equity line of credit" means a revolving line of credit secured by a mortgage or deed of trust.~~

1 (e) ~~For purposes of this section, “receipt of a written request”~~
2 ~~includes confirmation delivered by first-class mail, registered or~~
3 ~~certified mail, express mail, overnight delivery by an express~~
4 ~~services carrier, email, facsimile, or other electronic means.~~

5 (f) ~~A written request to terminate an equity line of credit from~~
6 ~~an authorized person shall be provided to the borrower and be~~
7 ~~accompanied by the following language:~~

8
9 **“NOTICE TO BORROWER**

10 You have a home equity line of credit with _____, secured by
11 a mortgage or deed of trust, and lien, on real property located at
12 _____.

13 Our company is handling the escrow for your transaction. We
14 are sending the attached notice to your lender, requesting
15 cancellation of your home equity line of credit. Our reason for
16 making this request is: _____.

17 When your lender receives our request, your lender will close
18 your home equity line of credit, and you will no longer be able to
19 obtain credit advances. However, this notice to cancel your home
20 equity line of credit does not release you from liability for amounts
21 owed under the account. Any funds sent to your lender in
22 connection with your home equity line of credit, including any
23 funds we may send to your lender, will be applied by your lender
24 to the satisfaction of your account. When the balance of your
25 account becomes zero, your lender will be required to remove the
26 lien against the property that is connected to the home equity line
27 of credit.

28 If you have questions about this notice or our action, or believe
29 you have received this notice in error, please contact _____
30 by calling us at _____ or writing to us at
31 _____.

32 _____
33 (Name of Company)”
34